[30.]

The late

# Famous TRYAL

OF

# Mr. Hickeringill,

Rector of the Rectory of *All-Saints* in *Colcheſter*; and Author of

## The Naked-Truth,

The Second Part.

With an INFORMATION exhibited againſt him for

## BARRETRY,

In XXIV Articles;

To make good the CHARGE againſt him at the Suit of the King, (as in courſe, but really) Proſecuted by one *Maltcher*, and one *Morris*, a Proctor in the *Spiritual Courts*.

At the Aſſizes in *Niſi Prius* held at *Chelmsford*, *March* 3. 1680. before Mr. Baron *Weſton*: Where and when, he was accuſed (amongſt other things) for writing the ſaid Book, called The Naked-Truth, The Second Part.

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*Obſequium Amicos, veritas odium.*

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Publiſhed impartially by an Ear-Witneſs, to quaſh falſe Reports.

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*LONDON*,
Printed for *Fr. Smith*, at the Elephant and Caſtle in *Cornhil*, near the Royal Exchange. 1681.

[107]

# Humble's TRYAL

OF

# Mr. Hickeringill,

Author of the History of *Addle-hall*, in the County of *Fleece-land*; and Author of

## CLERGY-DISPUTER.

The Second Part.

Wherein a Conversation concerning Religion, for

## PEACE and UNITY,

in XXIV Articles;

Together with the Author's Apology against him at the Suit of the Clergy, (in Court,) for Scurrility, Prosecuted by one Mr. Atterbury, and one Mr. Hickeringill, in the Spiritual Courts.

Also a Dialogue between Mr. Hickeringill and his Adversary, Mr. Atterbury: Where and when, he says he was accosted (amongst other things) for writing the Bill Books, called *Reasons*, The Second Part.

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*Quæque ipse miserrima vidi, & quorum pars magna fui.*

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*Printed for an Acquaintance, to quash the Reports.*

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1707.

# THE EPISTLE TO THE READERS.

MAny have been the Sham-Plots (of late) to conceal the True One; a ſubtil Age (no doubt) we live in, Plot upon Plot.

Amongſt other Contrivances, certainly this of caſting Dirt and endeavouring to blemiſh Mr. Hickeringil's Reputation by a grand Conſpiracy againſt him (and that by no ſmall Fools neither;) to convict him for a Common-Barretor, and conſequently a whisking Fine (ad libitum Judicium) to ruine him; is none of the leaſt, nor leaſt worthy the Publiſhing, for the benefit of every true Free-born Engliſh-Man. Many have ſet the Fine before hand, ſome voted to fine him one thouſand pounds, ſome two thouſand, ſome four thouſand pounds, nay, ſome (went further) prognoſticated that it would coſt him all his Temporal Eſtate.

But neither would this content ſome of them, but his Benefice muſt be forfeited into the Bargain, (ſo true is that in the Naked Truth,) —— The Mercies of the Wicked are cruel.

And truly conſidering the very many pretty Intrigues, the craſty Quirks in Law and Jingo's (hereafter diſcover'd in this Tryal) and the methods of proceeding againſt him, you may perhaps find as much Pleaſure and Diverſion, as Profit in this Publication.

For the Defendants Adverſaries were Great and Mighty, the Conſpiracy ſtrong, the time of his Tryal well fitted, in the Interval of Parliament, before a Judg Impeachd, or ready for Impeachment by the laſt moſt Honourable Houſe of Commons, Mr. Baron Weſton, that has mightily improved and 'mended the Matter (and perhaps his Market) by the laſt Charge he gave at this Aſſizes to the Grand Jury of Eſſex in the Face of the Country, (a Man well known, and in good time may be better known) The King's Learned Counſel

*Counſel* (*Sir* George Jeffreys *and Sir* Francis Withins) *with four or five more of the choice* Counſel *at the Bar, all* well-fee'd (*no ſmall Temptation to an* Hackney Tongue) *and well inſtructed with* Breviats (*or rather* Volumns) *of many Sheets of Paper, Witneſſes at Will, fifty for a need* (*though they were aſhamed to call above a* dozen *of the whole Crew*) *never ſo fit a Juncture* (*ſaid the Conſpirators*) *to ſhame and defeat the* Author of the Naked Truth; *and* the beſt (*if not the* only) *way to anſwer his Book, is to get Power and Authority on our ſides, all things conſpire and jump to work his downfal; nay*

Flectere ſi nequeunt ſuperos, Acheronta movebunt.

*Some there were ſo magically zealous, as to conſult the* Delphine Oracles, (*I mean*) *the* Wiſe-men, Magicians, *and* Aſtrologers *about the happy Event of this ſo much noiſed Tryal.*

*And one* G——— *erecting a Scheme* (*in anſwer to an Horary Queſtion to that Purpoſe*) *found the Face of the Heavens* to their Wiſh (*or at leaſt he made the Fools believe ſo.*)

*For the Queſtion being put* — Whether the Rumors and Reports againſt the Defendant Mr. *Hickeringill*, were true or falſe?

The Lord of the Aſcendant (*which ſignifies the* Querent) *and alſo the* Aſcendant, *together with the* Moon, *and the* Diſpoſitor *of the* Moon, *were in an* Angle, *and the* Succedent Houſe *in a* Fixed Sign, *and in good* Aſpect *with the Fortunes* Jupiter, Sol, *and* Venus, *which ſignifies that the Reports and Rumors were many and great, and alſo very true, and would prove ſo upon Tryal.*

*Beſides, The* Angles *of the Figure were* Fixed Signs, *and the* Moon *and* Mercury *in* Fixed Signs, *ſeparating from the Infortunes* Saturn *and* Mars, *and applying to good Fortunes poſited in the* Angles *of the Figure.*

*Nay, All the* Planets (from Top to Toe) *from ſurly* Grim-Fac'd Saturn, *to the Fickle* Moon, *look'd* aſquint, *upon the Defendant, and his* Significator.

*Only* Mercury *was* Retrograde, *which portended that the nimbleſt Wits would be fool'd and baffled, and* loſe Ground *and Credit in the World from that time following, and* (*like a Crab*) *go backward ever after.*

*Beſides* Mercury *was otherwiſe afflicted, which put* my Man of Magick *into a Dumps, and made him knit his Brows, and ſcratch his Logger-head; But he was almoſt out of his* (*little*) *Wits, when he fatally caſt his Eye again upon the* Horiſcope, *and found* Jupiter *there* (*the* Significator *of the Defendant*) *And* Luna *alſo was at that time unfortunate, which portended that Rumours and Reports* (*how lowd and many ſoever*) *either in City or Country againſt the Defendant would ſpeedily vaniſh and come to nothing, and that his Fame, like the Sun recovering from a Cloud, would but thereby ſhine the more illuſtrious.*

*Nay,*

*Nay,* Luna *too was void of Course and in* Oppolition *of* Mercury, *and neither of them cast either* Sextile *or* Trine *to the* Ascendent; *which put* the Wise-Man *to a notable Plunge, he was* in a Quandare, *and knew not well what to think on't.*

*However,* in good earnest, *false Rumours, Reports, and* slanderous *Aspersions, are certainly not only the most* common, *but the most* effectual Engine *that the Devil or Devilish Men can make use off to* batter *any honest Man, or Man of Honour: for though such an one acquit himself never so well, yet Hell has also broach'd a* Proverb, *that shall always fix a little upon him, namely* — There is never any Smoak, but there is some Fire.

*As if Slander could not invent a Lye, a groundless Lye; Slander! I had almost said — Almighty Slander, that seems to be able to baffle almost the Principles of Divinity and Philosophy.*

*Philosophy says* — ex nihilo nihil fit, *of nothing can come nothing.* 'Tis false, *Slander can produce something out of nothing, as you may see in this ensuing Tryal; of all the many and loud Clamours wherewith Malice and Slander charged Mr.* Hickeringill, *there was nothing, just nothing proved against him.*

*Divinity says, That* God (alone) can create something of nothing, but here and often *we find that* Slander can create *something out of nothing;* such a something, *that there were very few but gave up Mr.* Hickeringhill *for* a gone-Man, *dead, dead, or as bad; to be* bury'd alive *in perpetual Imprisonment.*

*O most* Mighty and Potent Slander! *King* David *could not tell how to resist it, It non-plust him* — What shall be given thee, and what shall be done unto thee? O thou false Tongue! *and the Wisdom of* Solomon *could not tell who was able enough to stand against Envy.*

*The* King's-Guards *cannot keep Slander out of the Court, she dares strike Princes upon the Throne, and the Reverend Judges upon the Bench; and tho her Neck be sometimes broke, yet she's an* Hydra *and revives.*

*The following Verdict for Mr.* Hickeringhill *has* broke her Neck, *and made an end of all those slanderous Clamours, which to give colour unto, the Conspirators against him have rak'd into all the Actions of his Life, for fifteen years last past, wherein he had any considerable dealings with any Man.*

*And as the Waters of a City* (clean *and* unclean) *disgorge and disembogue themselves into the great* Sink, *and* Common-Shore; *And as all the little Diseases, nay, all the Humours of the Body, good and bad, in time of the Plague, turn to the Pestilence: So all the late Actions that Mr.* Hickeringill *has done, or Books that he has writ* (except Curse ye Meroz) *you will find here jumbled together* (*by the* malignity and pestilential *Malice of his Adversaries*) *to make up this* filthy *and* plaguy *Crime of* Barretry. *A Crime*

 *that*

*that not one of a Thousand knows what it is, but it will serve, and has serv'd to make an ugly noise withal* — Barretry, Barretry.

*If one Man call another Whoremaster, or a Woman a Whore, and if he was neither Bolster nor Pillow, and cannot prove it, this is* Barretry.

*If a Man writes a Book, or tells false News, to the prejudice or hurt of any of the Kings Subjects, this is* Barretry; *and in a thousand Particulars more (so that they be frequently done, for twice or thrice will not do the Feat) Men may be indicted for* Barretry; *or else, if his Adversaries (like the Defendants Adversaries) be Purse-proud and mighty, and dare venture the hazard of being overthrown; (for it will ruine the Informer if the Defendant be acquit; and the Pit that he dig'd for another, he must fall into himself,) then an* Information *in the* Crown-Office *is the* Mode, *like this which follows.*

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An

An Impartial

# NARRATIVE

OF THE

*Most Remarkable Passages in the Tryal of Mr.* Hickeringill, *for Barretry,* March *the 3d,* 1680. *At the Assizes of* Nisi Prius, *held at* Chelmnsford *for the County of* Essex, *before Mr. Baron* Weston.

GReat was the Expectation, great the Concurrence, great the Hopes, the Noise, and the Confluence, at this so-much-talk'd-of Tryal: The Illustrious Duke of *Albemarle* upon the Bench by the Judg, (whether by accident, or on set purpose, is not enquirable at present.)

Old *chattering* there was by all the *Vermine*; old clapping of Wings and hooting, at this merry Day, a Day that promised a wonderful Conquest.

What, (said some) shall this daring Man, this Common Barreter, ever hereafter find any more faults in Ecclesiastical-Courts, in Bishops, Arch-Bishops, and Arch-Deacons? In Proctors, Sumners, and Registers? In Advocates, Doctors, and Apparitors? and such harmless Men?

Shall we lose our Moneys for Commutations of Penance and Excommunications, Sentences, Decrees, and Absolutions; Citations, Libels, and Visitations, Synodalls, Sequestrations, and Proclamations? And yet shall he, *that wicked Elf* (that has done our Business) escape, or imagine to escape Scot-free? No, no, his Business shall now be done, and wee'l answer the *Naked Truth* with a Vengeance: Listen to the Charge or Information of Barretry.

The

# The Heads of the Charge againſt *Edmond Hickeringill*, Clerk, for Barretry, exhibited by *Samuel Aſtry*, *Feb.* 14. 1680.

IMprimis, *For purchaſing Lands and Tenements of one* Weſtenraw *in* Bradfield *and* Wix *in* Eſſex; *the ſaid Defendant* Hickeringill, *knowing that divers Suits and Pleas were then depending for the ſame, and* Weſtenraw *being out of Poſſeſſion; and for maintaining divers Suits about the ſaid Lands.*

2. *For purchaſing divers Lands and Tenements of one* Elizabeth Blois *and others in* Thorp *&* Kirby, *or one of them in* Eſſex, *the ſaid Defendant* Hickeringill, *knowing the ſaid* Elizabeth *being then out of Poſſeſſion; and for managing Suits about the ſame.*

3. *For purchaſing divers Lands and Tenements in* Thorp *and* Kirby, *and* Much Clacton, *or one of them, of* Ford *and his Wife, and* Blois *and his Wife, being out of poſſeſſion, the ſaid Defendant then knowing that divers Suits and Pleas were then depending for the ſame, and maintaining Suits about the ſame.*

4. *For ſtirring up and maintaining divers Suits againſt one* Petfield, Hill, Everet, *and* Freeman, *all of the Town of* Colcheſter, *with an intent only to extort Mony from the ſaid Parties; and to ruin them, and to put them to trouble and charges, and giving a Bill of Charges under his own Hand, and demanding five pounds for Charges, when there was not ten ſhillings due.*

5. *For publiſhing ſcandalous Libels againſt Sir* John Shaw, Thomas Talcot *Eſq;* William Moore *Eſq;* Jonathan Merry *Gent. and others, being then Magiſtrates in* Colcheſter.

6. *For extorting by Threats of Suits at Law, without any juſt Cauſe, great ſums of Mony, and Bonds, and other Writings, for payment of Mony from* Tho. Shortland *and others.*

7. *For concealing the laſt Will and Teſtament of* —Andrews, *delivered to him, being a Surrogate, made to prove the ſame; which occaſioned divers Suits to be brought about the ſaid Will, which Suits the Defendant maintained.*

8. *For bringing vexatious Suits, without any probable Cauſe, in his own Name, againſt one* Killingworth, *letting them, fall only to vex and trouble the ſaid* Killingworth, *and to put him to Charges, he himſelf being protected.*

9. *For maintaining divers Suits in anothers Name, againſt one* Sadler, *his Servants, Agents, and Tenants.*

10. *For ſtirring up and procuring divers Actions of Ejectment, to be brought againſt one* Wheely *of* Colcheſter, *on the Demiſe of* Mary Living, *and ſoliciting the ſaid Cauſes, and maintaining the ſaid Suits at his own Coſt and Charges; the ſaid Defendant then knowing that the Leſſor of the Plaintiff had no Title to the Premiſſes, and that ſeveral Verdicts had paſſed before the Commencement of the ſaid Actions for the Defendants Title.*

11. *For the purchaſing Lands and Tenements of one* Rolph, *who was then out of Poſſeſſion; and divers Suits and Pleas were then depending for the ſame, and maintaining divers Suits about the ſame.*

12. *That the Defendant being Surrogate, did grant Adminiſtration of the Goods of one* Shortland, *to one* Shortland *the Defendant; then knowing that the ſaid* Shortland *had made a Will, but before he would grant the ſaid Adminiſtration, he forced and compelled the ſaid* Shortland, *to give a Bond to one* Sewell, *to the uſe of himſelf the Defendant, for payment of a great ſum of Mony, and did promiſe to maintain any Suit that ſhould be brought againſt the ſaid* Shortland, *by reaſon of his being Adminiſtrator.*

13. *For bringing and maintaining ſeveral Suits in the Exchequer againſt* Luke Benny, Robert Car, *and others, for Tythes, within the Pariſh of* St. Peter *in* Colcheſter, *without reaſonable and probable Cauſe, with a Deſign to oppreſs the ſaid Parties, and unjuſtly to extort ſums of Mony from them where none was due; and by falſe Suggeſtions, extorting ſums of Mony from others,* John Beacon, *Mr.* Langley, *and others upon pretence of Tythes due to him, whereas none was; and the ſaid Perſons were after compelled to give ſatisfaction to Mr.* Thomſon *Vicar of the ſaid Pariſh of St.* Peter, *to whom the ſame were due.*

14. *That the Defendant being Surrogate, did refuſe to grant Adminiſtration of the Goods of one* Peter Fromanteel, *to his Brother* John Fromanteel, *altho the ſaid* John *did tender ſufficient Securities, according to the late Act for the due execution thereof; but did grant Adminiſtration to one* John Rayner, *and did encourage the ſaid* John Rayner *to break open the Houſe of the ſaid* John Fromanteel; *and incited and procured the ſaid* John Rayner, *to bring Actions againſt the ſaid* John Fromanteel, *and maintaining the ſame; by reaſon whereof, the ſaid* John Fromanteel *was forced to deſiſt proſecuting in his juſt Title any farther for obtaining the ſaid Adminiſtration, by reaſon of the great Charge.*

15. *For ſtirring up divers Freemen of* Colcheſter, *to remove Sir* John Shaw *out of the Office of Recorderſhip, without any juſt cauſe, in making and cauſing Tumults and great Hubbubs in* Colcheſter *upon that account.*

16. *For procuring of Mrs* Quilter, *falſly to deny upon her Oath the Receipt of three pounds for Gravel.*

17. *For cauſing the Wife of Mr.* Sidey *to be arreſted, being a Feme-Covert, at the Suit of his Son an Infant, and detained her in Cuſtody, for four days, altho he knew ſhe was a Feme Covert and her Husband living, and altho ſhe proffered an appearance for her ſelf, he the ſaid* Hickeringill *having promiſed to ſave the Bayliff harmleſs, for ſo doing, the Bayliff being af-*

*ter arrested for detaining her, and coming to* Hickeringill *he refused to save him harmless, according as he had promised, but bid him take his course, for he was protected by three Lords.*

18. *For bringing a vexatious Action against Mr.* Thompson *Clerk, upon the Statute of Non-residence, without any just Cause, in which Action he became non-suit, or found for the Defendant.*

19. *For the procuring a Person to personate the Church-warden in the Parish of* Wix *in the County of* Essex, *and to join with him in the sale of the Bells belonging to the said Church.*

20. *For threatning to ruine by Suit of Law, several Inhabitants of the Parish of* Wix, *if they offered to set out their Tithes in kind, and would not compound with him according to his own Rates, thereby extorting great sums of Money from them.*

21. *For taking upon him to give Counsel and Advice to People in Matters of Law, and for taking of Fees, as* Tho. Shortland, Daniel Howlet, *and Widdow* Lamb, *and other People, on purpose to stir up contentious Suits; and in order to carry on his Designs, he hath told People, he was a Barrester at Law standing in* Gray's-Inn, *and could give as good Advice as any Counsel.*

22. *For writing two Scandalous and Seditious Books, entituled, the* Naked Truth, *and* Gregory Gray-beard, *the Contents of which said Books are on purpose to stir up, and animate his Majesty's Leige People to slight the Bishops, and contemn the Government, and cause Strife, Contention and Sedition.*

23. *That he knowing that Mr.* Harris *was Vicar of* Fingrinho *in* Essex, *and rightly entituled to the small Tithes, and being also duly made Sequestrator of the profits to the Churches of St.* Leonards, *and St.* Buttolph's *in* Colchester; *Nevertheless he the said* Hickeringill, *hath stirred up and forwarned several of the Parishioners of the said Parishes not to pay any of the Dues to the said* Harris, *on purpose to stir up contentious Suits, between the said* Harris *and his Parishioners; and further, promised the present Tenant in the Parsonage-House of the Parish of St.* Leonards *to save him harmless, if he would not deliver the Possession to the said* Harris, *altho the said* Hickeringill *hath no manner of Title or pretence of Title to the same.*

24. *For vexatiously bringing and maintaining several Actions at Law, against* John Bridg, *and one* James Sidey, *about certain Lands in* Dedham *in* Essex.

Issue——Not Guilty.

*On*

*On* Thursday *the* 3d *of* March, 1680. *in the Afternoon, about two of the Clock the Tryal began, and continued 'till after Candle-Lighting.*

THe *Jury* return'd was a very Honourable One, the like seldom or never seen on such an occasion, which was the *greatest* Honour and Favour, if not, *the only one*, in the whole Tryal and Proceeding, granted to the Defendant.

*Juries* are the great Birth-right (and one of the greatest Priviledges, except a Parliament) belonging to an *English-man*; what would become of us, our Lives, our Liberties, our Properties, our Honour, our Reputations, or Lively-hoods, and Estates, if Rage and Malice, Passion and Prejudice (when got into Power and upon the Bench) might have its Will and bear an Arbitrary Sway? Happy *English-Men*! If they will stick to their Liberties, and stand up for their Native-Rights, that cost our fore-Fathers so much Blood to defend, and transmit to us their Posterity. And unhappy Sycophants and Slaves (Wretches not worth a Name) that would be Instrumental to defeat us (and *make a mock*) of our Birth-Rights.

But the Truth is, the Defendant was allowed the Benefit of *Magna Charta*; he had not his Cause tryed by ordinary and common Jury-Men, but (as the Law requires) *by lawful Judgment of his Peers.*

The

The Names of the Juror's return'd, as follows.

Ester Com. Per Dominum Regem & Edmundum Hickeringill *Clericum.*

1. *Richardus Everard* de *Waltham magna* Miles & Baronet.
2. *Marcus Gwyn* de *Gogshall magna* Miles.
3. *Cuthbertus Martin* de *Nettelswell* Armiger.
4. *Richardus Gedbold* de *Botcham* Ar.
5. *Willielmus Maynard* de *Waltham-Stow* Ar.
6. *Johannes Marsbok* de *Epchingfield* Ar.
7. *Willielmus Clayton* de *Liston* Ar.
8. *Johannes Tendring* de *Baddow magna* Ar.
9. *Henricus Pascall* de eadem Ar.
10. *Thomas Smith* de *Blackmore* Ar.
11. *Alexander Prefcot* de *Mountnessing* Ar.
12. *Willielmus Peirse* de eadem Ar.
13. *Richardus How* de *Ingate-Stone* Ar.
14. *Thomas Reeve* de *West-Hamingfield* Ar.
15. *Henricus Humphrey* de eadem Gent.
16. *Samuel Whitebread* de *Baddow magna* Gen.
17. *Willielmus Puckridge* de *Westham* Gen.
18. *Willielmus Wiseman* de *Paiseswick* Gen.
19. *Johannes Everley* de eadem Gen.
20. *Andreas Eveling* de eadem Gen.
21. *Robertus Alderman* de *Daggenham* Gen.
22. *Johannes Nicolls* de *Danbury* Gen.
23. *Robertus Kerrington* de *Boreley* Gen. Et
24. *Thomas Turner* de *Fearing* Gen.

Eleven (only) of the Pannel appeared, to which was added a *Tales*; Which being Empannel'd and Sworn, The Defendant (Mr *Hickeringill*) was call'd, who appear'd in *propriâ Personâ*.

Then a *Junior-Counsel* began to open the *Information*, saying, I am of Counsel in this Cause for our Soveraign Lord the King, in an *Information of Barretry* brought against the Defendant *Edmund Hickeringill* of the Town of *Colchester*, in the County of *Essex* Clerk, for being a *common-Barreter*, and a dayly and common Disturber of the Peace of our Lord the King, and also a Brawler, a Fighter, a Calumniator, and an Oppressor of his Neighbours, and a Sower of Strife, and Contention amongst his quiet Neighbours, and amongst the People of this Kingdom of *England*, so that the said *Edmund Hickeringill* at the time of the Information brought, and 'till now in the County aforesaid, and in the Town aforesaid, and in other places in the said County, the said Strifes,

Strifes, Differences, Contentions, Brawlings, Suits, and Quarrellings amongſt his ſaid Neighbours, and other the Leige Subjects of our ſaid Lord the King, hath often moved, excited, and ſtirred up, to the great Diſturbance, Ruine, Impoveriſhing and Dammage, not only of his ſaid Neighbours, but alſo of the ſaid Leige People, and Subjects of our ſaid Lord the King, to the pernicious and evil Example of Delinquents in the like Caſe, alſo againſt the Form of the Statutes in that Caſe made and provided, and in Contempt of our ſaid Soveraign Lord the King, his Crown and Dignity, *&c.*

But the ſaid Counſel mumbling all this between his Teeth, The Judg ſpoke to him in theſe Words, *viz.* *Mr.* Smith, *You open the Cauſe well enough to my Underſtanding, but you muſt ſpeak out that the Jury may hear you*; and then he began again, as well as he could, and proceeded a little.

But Sir *George Jeffreys* preſently took up the Argument, and began to open it, and expatiate upon it, after his loud manner of declaiming, and told a long Story of the heinouſneſs of the Crime of *Barretry*, ſo odious to the Law, ſo inconſiſtent with the Peace of the Neighbourhood, ſo unwarrantable in all Men, more inſufferable in a Miniſter of the Goſpel of Peace; ſuch was the Defendant, and the Crimes he was guilty of were great and many. And (quoth he) if my Breviate do not fail me, I will now expoſe before you the greateſt *Barreter* that ever was heard off; he has by extortion taken five Pounds and eight Shillings, when but ten Shillings was Due in the Pariſh of St. *Buttolph's* in *Colcheſter*, as Fees of his own Court, as Surrogate under the Biſhop in *Colcheſter*, (*where note by the way, the Modeſty of the Man, for of that* 5 l. 8 s. *inſtead of* 10 s. *the Defendant never had one Farthing, nor any Body for him, nor was one Farthing paid, or demanded*; *nor ever any ſuch Cauſe brought before Mr.* Hickeringill, *as Judg of the Eccleſiaſtical Court*; *but the Cauſe was brought in the Biſhop's Conſiſtory-Court at* London, *for very good cauſe*; *nor durſt Sir* George Jeffreys *ever all the whole Tryal, or any other of the Counſel call it to Proof and to the Teſt, but it ſerved him to* baul *withal, and to make a noiſe againſt the Defendant.*) Then Sir *George Jeffreys* went on, and told them of many other Crimes that the Defendant was Guilty of, (before any one Witneſs was call'd to prove any of the Crimes) making a long and loud Harangue; in which the Defendant interrupted him: Saying, Sir *George*, Sir *George*, Proſecute me in your Place with all the Vehemence and Paſſion that you are full of, ſpare me not, I neither require nor need your Favour; but you have no Authority, by vertue of your Fee, to defame me, with Stories and Untruths of your own deviſing; prove ſomething upon me. To which Sir *George* reply'd, with enraged Eyes ſtaring with Paſſion, What have you to do to interrupt me? To which Mr. *Hickeringill* reply'd, I will interrupt you, when you tranſgreſs the bounds of Truth and Modeſty; you have no Authority, nor can any Body give you Authority to abuſe me. Whereupon the Judg candidly reply'd, in theſe Words; *Brother*, *Brother*, when you touch a Man's Reputation, you touch him in a tender Part; I cannot blame a Man for being ſenſible of it, prove ſomething upon him, and leave off your declaiming; or Words to the like Effect. Go on to your Proofs, open no more than you can prove. Note by the way, That the Judg had

 *with*

*with much ado* given the Defendant leave to plead his own Cauſe, and make his own Defence; The Defendant alledging that he had not time to inſtruct his Counſel, and tho he mov'd in the beginning of the laſt Term by Mr. *Sampſon Ward* at the King's-Bench-Bar, that the Judges there, would be pleaſed to let the Defendant know the Particulars and Heads of the ſaid Articles, yet the Juſtices of the King's-Bench would not allow him more than one Fort-night before the Aſſizes, to know the particular Crimes of which he was accuſed, and to which he might prepare a Defence; I know not for what Reaſons, but longer time would not be granted him: and that time had been ſpent in preparing and bringing 20 Witneſſes, and in diſcharging his publick Duty as a Miniſter of the Goſpel in his Rectory in *Colcheſter*, (which he neither did, nor would neglect for any private Concern of his own.) And the Defendant alleged that the Articles againſt him were many and large, and all the Actions of his Life good and bad for 15 Years laſt paſt, rip'd up, to make him appear a *Common-Barreter*, and that the Breviate (which the Defendant held then in his Hand) was rather a Volumn than a Breviate, and that ſince he had no Counſel, that his Lordſhip would (though it be great diſadvantage for any Man to plead his own Cauſe, and much more the Defendant that had no Skill, no Practice, no Ability in Pleading another Man's Cauſe) yet that his Lordſhip would with Patience, hear him make his own Defence, our Law condemning no Man before it hear him; and the Defendant alledging that it was his Birth-right to have his Lordſhip's Patience and an indifferent Hearing, in making his own Defence: To which his Lordſhip paſſionately reply'd in theſe very Words, *Your Birth-right, Your Birth-right, this I meet every where amongſt theſe Men, they tell me of their Birth-right, their Birth-right, and that they are Free-born Engliſh-men.* Yes, my Lord, reply'd the Defendant; I ſay again, *my Birth right*, and if your Lordſhip will not permit me your Patience to hear my Defence, then go on, and hear but of one Ear; I'le not ſpeak one Word more, if you will not hear me with Patience; I need no other Favour, I have Innocence enough to protect me againſt the Skill, and Eloquence of all the Counſellors againſt me, and to defeat them all.

*You are very confident*, replyed his Lordſhip, *I will give you a fair Hearing*; (and ſo he did (ever after that) a tollerable Hearing) *But* (ſaith his Lordſhip) *to ſtop his Mouth, and to ſilence his Plea of Innocence, prove upon him ſome Article that may be Evidence of the Information; begin with ſomething you can prove.* Whereupon the Counſel skip't over the firſt eight Articles for that time, and began with the ninth Article; Namely,

Article 9. *For maintaining divers Suits in another's Name, againſt one* Sadler, *his Servants, and Agents, and Tenants.*

To prove this, they produced one *Lawrence* that told a blind Story of a Covenant; and ſometimes he called it a Bond, that one *William Sadler* made to the Defendant; but not able to make any thing of it, at laſt they produced one Mr. *Thomas Earl* an Attorney in *Colcheſter*, who ſwore, that there were Horſes, Lands, and Tenements in *Horkeſley*

*Mag-*

*Magna*, that were in the quiet poſſeſſion of one *William Sadler* for ten or twelve Years; and that he, together with the Mother of the Son and Heir of one *Peter Sadler*, did perſwade the Tenant of the Premiſes, to turn Tenant to the ſaid Widow, in the right of her ſaid Son; which the Tenant did, knowing or believing it to be right and juſt; and that there was afterwards an admittance of the ſaid Heir to the ſaid Lands, being Copy-hold by the Lord of the Mannor, and 25 *l.* paid down in Court for a Fine in part, and 15 *l.* more was to be paid in full; and that there was a Tryal at the Aſſizes for the ſaid Land, and the Right was found to be in the ſaid Widow and her Son, who enjoy the Premiſes to this day. Whereupon the Judg, in much indignation (interrupting him) ſaid, *What is all this to the Matter in hand charged againſt the Defendant, Mr.* Hickeringill? *Did he perſwade you to take poſſeſſion?* *Earl* replied, He could not ſay that, but he believed Mr. *Hickeringill* had ſome Mony of the Widow *Sadler*, but he had almoſt *forgot how much, or for what* the Mony was paid unto him. Then the Counſel for the King produc'd a Receipt of 15 *l.* under Mr. *Hickeringill*'s own hand, (which was read) namely, for part of the Fine due (as aforeſaid) to the Lord of the Mannor (for a Fine) for the ſaid Copy-hold-Lands: which put the Judg again *into a Fret*, that they ſhould make ſuch a-do and Circumſtance for nothing; and thereupon the Judg bid them go to ſome other Article, if they could thereby prove that the Defendant had done ſome Dammage (according to the Information) or Detriment, or Injury (by way of Maintenance or Barretry) to any of the King's Liege People. *A heavy Toſs there was* then amongſt the King's Counſel, which Article of the 24 to inſiſt upon, to make good their grievous Charge; and ſome named the 23, ſome the 18, ſome the 13, at laſt, with *much a-do*, it was agreed to urge the 10*th* Article; which they did, and called their Witneſſes thereunto; but ſo unſucceſsfully, that the Cauſe began to cool, and they were all at a loſs which Article ſhould next be improv'd to prove the Charge. For they produc'd (to prove this) a Fellow that could make a demure long Prayer, as well as a thumping falſe Oath, one *John Wheely* of the Town of *Colcheſter* Brazier, in the Article mentioned, and he ſwore home, or (as we ſay, through an Inch-board) againſt Records; ſwearing, That he had had divers Suits at Law for the Premiſes, with the ſaid *Mary Living*, in the Article mentioned, and he always got the better of her, and recovered both at *Common-Law* and in *Chancery*.

What's this to the purpoſe? (ſaid the Judg) Did the Defendant bear the Charges of the Suit by Maintenance, to have part of the ſame when recovered? *No*, quoth *Wheely*, I cannot ſay that, but only that he once gave me a *Subpœna* out of *Chancery*, where ſhe was Plantiff againſt me. What, (ſaid the Judg to the Counſel) are theſe your Witneſſes to prove Barretry againſt Mr. *Hickeringill*, only for delivering a *Subpœna*; for ſhame go on to ſomething that may ſtick upon him.

Whereupon the Defendant produc'd an *Exemplification* (under the King's Broad Seal of *England*) to prove that the ſaid *Wheely* was a perjur'd Wretch in Swearing, that he always recover'd and got the better of the ſaid *Mary Living* at *Common-Law* and *Chancery* for the Premiſes; whereas in truth the ſaid *Mary Living* had a Verdict againſt the ſaid

*Wheely*

*Wheely* for the Premiſes, at the Aſſizes for the County of *Eſſex* before Judg *Keeling*, *John Robinſon* Attorney for the ſaid *Mary Living* Plantiff Leſſor, and one *Richard Tiplacts* Plantiff Leſſee in Ejectment, and Attorney for the ſaid *John Wheeley*, *Thomas Ruſe* of *Colcheſter*; the Exemplification beginning, *Carolus Secundus, &c.* and concluding, *T. Vaughan apud Weſtm. 30. Novembris, Anno Regni Regis viceſſimo primo.* Wyrley. But the Judg ſaid there was no occaſion for reading it at that time, for *Wheely* had ſwore nothing of harm that the Defendant had done; for in the firſt Inſtance, (*Article* 9.) all that could be gathered, was rather to the honour of the Defendant, in helping an Infant and an Orphan to an Eſtate, of which ſhe was unjuſtly deprived; and now in endeavouring to help a Widow to an Eſtate that once ſhe recover'd, and had a Verdict for: and very angrily took up the King's Counſel, and bid them go to ſomething that might ſtop the Defendants Plea of his Innocence; for the Defendant all the while, with chearful Countenance, ſmil'd to ſee them ſo angry and paſſionate one with another, in keeping ſuch a-do for nothing.

After a great puther, it was unanimouſly agreed by all the Learned Counſel, that the *twelfth Article* ſhould next be urg'd; and to prove it, they brought two Bum-Bayliffs, *Thomas Martin*, and *John Groom*, of *Colcheſter*, (Raſcals that be too much honour'd by naming of them) but, the miſchief was, they were too hot in their mettle, and ſwore too home, for they ſwore that the Defendant granted an Adminiſtration to *Thomas Shortland*, (in the *Article* mentioned) being Surrogate of the Court; but that alſo he refuſed to grant the ſame, till *Shortland* had firſt entred into Bond to pay him twenty *Guinies*. Theſe Fellows did the Buſineſs for which they came; and *diſgrace enough it was* to the Defendant, to take 21 *l.* 10 *s.* for an Adminiſtration, when (in the *Naked-Truth*) he finds ſuch fault in the Regiſters for taking ſo many *Shillings* for an Adminiſtration. Great hopes and jollity there was in the whole Court, when theſe pregnant Teſtimonies were produc'd, which were thought unanſwerable; and the Judg demanded of the Defendant, What he could ſay for himſelf?

The Defendant anſwered, That if he did take ſuch a mighty Bribe, it might be Extortion, but yet not Barretry. Secondly, That it was impoſſible but that the Fellows were perjur'd; for if the Defendant, Mr. *Hickeringill*, did never grant any Adminiſtration to *Shortland*, nor that *Shortland* ever had any Adminiſtration, either from the Defendant, or any other Judges of any Eccleſiaſtical Court in all the Dioceſs of *London*; then it was impoſſible that he ſhould take a Bribe, or commit Extortion, in granting what was never granted. But to that the Fellows ſwore; one of them ſaid, he brought he Seal; and the other ſwore, he *ſaw* ſuch an Adminiſtration.

Then to prove them perjur'd, the laſt Will of *Thomas Shortland* was immediately produc'd by the Defendant, and read, (and the Executors being Quakers, revoking the Executorſhip) an Adminiſtration *with the Will annext*, was granted (in the *Prerogative-Court* of *Canterbury*, under the Name and Seal of *Gilbert* late Arch-Biſhop of *Canterbury*) and where the ſame ought to be granted, (it being a Prerogative-Caſe) and a Court where Mr. *Hickeringill* had no more Power, Authority, or

Concern,

Concern, than any other Man in *England*, signed, *Martus Cattle Regestarius*; and beginning with these words, ——— *Gilbertus Providentia Divinâ Cant. Archiepiscopus totius Angliæ Primas & Metropolitanus, Dilecto nobis in Christo, Thomæ Shortland Filio naturali & Legitimo Thomæ Shortland nuper de villâ Celestriâ*, &c. And dated, *August* 7. *Anno Dom.* 1676. *Nostræque Translationis Anno* 13.

Here was an apparent and wilful Perjury in these Witnesses Evidence for the King, and I believe the whole Court began to be asham'd of them; but to make them more appall'd, the Defendant produc'd a Record, prov'd by Mr. *George Catesby*, Town-Clerk of *Sudbury*; where one of the Rogues (called *Thomas Martin*) was whipt for a Thief; and the Defendant said, That tho his Name was not *Whipping Tom*, yet he was *Whipt-Tom*. But the Judg made some wonder at the said Record, because the Clerk of the Court, reading the same in English (out of the Latin) said, That he was whipt from the Girdle *downwards*. Downwards, said the Judg, sure that cannot be! 'Tis *Deorsum*, said the Clerk: That's more than ever I knew, quoth the Judg, to whip *a Man* from the Girdle downwards at the Carts Arse; *That's the way to whip a Woman, quoth Baron* Weston, *but I never knew a Man order'd to be so whipt*. Nevertheless it past off with a Jest, and the By-standers, with much Edification, learn'd from the Judges own Mouth, the right way how and where to *whip a Woman*, namely, from the Girdle downwards; the new Mode belike!

In short, notwithstanding all this comical Discourse, the Judg began to be *in good earnest angry* with the Learned Counsel, that (after all this loud noise in Court, City, and Country, against the Defendant, as a *Common Barretor*) they should thus trifle and abuse his patience, (with which he is not over-loaded) at length he told the Counsel, that if they were thus baffled in all their Attempts, they should not need to charge the Defendant (as in the 22*th* Article) *that he could give as good Advice as any Counsel*; for at this rate, it would prove true, the Defendant would baffle them all.

Whereupon the Learned Counsel *laid their Heads together*, and resolv'd to go backward, and try what work they could make with the second and seventh Articles together; but here they had worse luck than before, producing two Witnesses, one Widow *Bloiz*, and one *Rolf* her Son-in-Law, two more infamous Witnesses than the former; for such shameful and abominable uncleanness (betwixt them committed) was proved against them then and there, in open Court, that it would offend any modest Ear to repeat the same.

Besides, The Woman, *Elizabeth Bloiz*, swore such damnable Untruth's too; as that the Land the Defendant bought of her, (for which she had but 210 *l.*) did rent for 40 *l. per Annum*, and now for 30 *l.* and that she could not tell whether Mr. *Hitchingill* gave her *the last Will* of *Thomas Andrews* in open Court.

And yet she has sworn in the Prerogative-Court at *London*, that the Defendant did give her the *said Will* in open Court; the same is also in the same Court sworn by the said wicked *Rolf*, her Son-in-Law, and he also swore the same at this Tryal, against her false Testimony; and so did her own Sister also, *Mary Gould*, testify the same.

Besides, it is as true, as that there is a Sun in the Firmament, that Mr. *Hickeringill* never had, nor has any more Land or Houses bought of her (in *Thorp* nor in any other place in the World bought of her) than 10 *l. per Annum*, and yet she swore 30 *l. per Annum*, which all the Countrey knows to be false; and yet Sir *Francis Withins*, kept a little huffing with it, as if Mr. *Hickeringill* bought such a Penny-worth, and yet Mr. *Hickeringill* proffer'd in Court to lose 20 *l.* by the Bargain he made with her; and I am sure he will yet willingly lose 40 *l.* to any Man that will buy it again of him. Tho he, I am sure, has no need to sell, for at this Day all the Men in the whole World, cannot demand 5 *l.* of him, as justly due to them, or any of them from him, to my certain Knowledge. Therefore what need has he of a Protection from three Lords (as in Article 17*th* objected against him) that is no more indebted than a Lord? Yet the Judg willing to reprove Mr. *Hickeringill* for something, *if he could have told what*, at last told him that there was cause enough for the Bishop to *deprive him* of his Benefice, *for medling with Law Matters so much*, and in Temporal Affairs, and perhaps if the Judg had the keeping of his Spiritualship, Mr. *Hickeringill* should neither be so Rich, nor so Fat and Corpulent as he is.

Kind Man! How soon and how ready was he to shoot his Bolt at the Defendant, if he could have told how, and for which he was not unattentive to improve any thing against him to render him *an ill Man*, since he could not make a common *Barreter* of him.

But (alas!) the Defendant only smil'd all the while to see them tugg and labour in vain, and pitying the Judg when he saw him *in a fret*, and most especially when he talk'd of the Bishop's *depriving a Minister for dealing in Temporal Affairs*, when the Bishop himself (being a Parliament-Man and a Privy-Counsellor) is forc'd (above any other Priest in the Diocess) *to deal in Temporal Affairs*.

Besides, That Man talks *without-Book*, and *against Law*, and *Magna Charta*, that *dare* avouch that any Man *can deprive* another of his Freehold (in this Kingdom) but by *Judgment of twelve Men of his Equals*. The Bishop can deprive no Minister in the Diocess, but by the Law of the Land; namely, by the Judgment and Verdict of twelve Men of his Equals; other Doctrines are dangerous, and destructive: And so much the more, when spoken by one that should tell the Law in Truth, and not in Sycophantry, no Man is too great to be good, and subject to the Laws.

The Counsel, in brief, made some little Assay with the 17*th*, 18*th*, and 24*th* Articles, which proving more unsuccessful than the former, and worse and worse, the Learned Counsel in as great Rage and Indignation, as Despair (without the least mention of the *Naked Truth*, in the 22*th* Article, or offering at any other Article) furiously threw away their *Berviate's* at the Teeth of the Prosecuter, that Proctor *Morris* the full Court, and as much dismay'd, as the *Learned Counsel* were enraged and ashamed. *The Thunder ceased*, the Judg himself could not forbear reproving that *loud speaking* Man, Sir *George Jeffreys*, that kept *such a blunder* at first in his *noisy way* of defaming and huffing Men (that have not the luck first to retain his Tongue) with which he kept *such a splutter* at the beginning of the Tryal: but by this time he was become as Patient as any Ram: and though he did at first (*classicum canere ante*

*Triumphum)* wind his Horn before the Victory; yet by this time he began to be almost as tame as he was at *Kingston* the last Assizes, before the same Judg *Weston*, who gave him such smart Repartees, and roy'd his *Welsh-Blood*, that for very madness he sat down and Wept, (Good Man!) His Courage being so cool'd, that his boyling Blood turn'd to Phlegm and Water in such abundance, his Body could not contain the flame, but it found vent and run out at the Rivulets of his Eyes; And the sadder he was and heavy, the more Jocund was the by-standing Counsel, who could not forbear to laugh when he cryed (poor Man!) And *the more* he Cryed, *the more* they Laugh'd, *hard hearted that they were!*

In fine, the Judg (very calmly too) upbraiding some of the Counsel with Folly, and the Witnesses with Impertinency, told the Jury, that they must find for the Defendant; which they did, after a little, a very little Pause, without stirring from the Bar.

*Magna est Veritas, & prævalebit.*

Truth is always strongest at long-run, and will at length prevail.

## *The Conclusion.*

IT is not easy to determine whether *Machiavel* was more *wise* or more *wicked*, more *subtle*, or more *malicious*, more *full of policy*, or more *full of* (evil) *Craft*, in that *Maxim* of his——*Calumniare fortiter & aliquid adhærebit*; cast dirt enough, and some of it will stick. However if it be *wip'd off*, it costs trouble and vexation to do it; and how causeless soever, it is not easy to wipe away the Dirt so clean, but that the censuring World will imagine some stains left to blemish the greatest Beauty.

In this same Tryal against Mr. *Hickeringill*, 'tis evident, that his Adversaries have been right *Machiavellians*, and have copyed after their great *Master of Politicks* to the life, in a loud, loud Cry against the unstained Innocency of the Defendants Life and Conversation.

Many Men, many great Men (I had almost said great Church-men) had a hand in the Work.

Lucr. ——————*Sæpius olim*
*Religio peperit scelerosa atq; impia facta.*

*Religious Men (though sometimes good)*
*Were oft, of old, a cursed Brood.*

There was a Law amongst the *Romans*, that no Virgin should be executed; whereupon, when the Daughter of *Sejanus* was condemn'd to die; the Hangman first deflowred her, and then beheaded her.

Thus

Thus, just thus do the wicked World with Men's Virgin Innocency; they cannot pass upon it ('tis against Law) till they have first defiled it with Lies and Slanders. Thus have they dealt with Mr. *Hickeringill* in the whole Process; first, They array him in their own slanderous Bearskins, then and set on their Dogs upon him, not only to bark and bawll, grin and show their Teeth at him, but they would have bit him too.

*But he that sitteth in the Heavens shall laugh them to scorn, the Lord hath had them in derision, no Weapon that they have formed against him did prosper, and every Tongue that has stood against him in Judgment, is condemned.* Let his Enemies hereafter learn to say with the wicked Prophet *Balaam, How shall I curse, whom God hath not cursed? And how shall I defie, whom the Lord hath not defied?*

# *FINIS.*

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